

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

SHAWN LAMAR HENDERSON,

Plaintiff

v.

UNKNOWN,

Defendant

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CAUSE NO. 3:05-CV-404 RM

OPINION AND ORDER

Shawn Henderson, a prisoner confined at the Pendleton Correctional Facility, submitted a complaint in this court but has not filed a petition to proceed *in forma pauperis* or paid the filing fee. Pursuant to 28 U.S.C. § 1915, a prisoner must pay the full filing fee, either in advance or over time. But a prisoner may not bring a civil action *in forma pauperis* if he has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it was frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). This is commonly known as the “three strikes” provision.

The records of the United States District Court for the Southern District of Indiana establish that the disposition of three cases filed by Mr. Henderson: IP01-1912-C-T/K (dismissed December 26, 2001 for failure to state a claim upon which relief can be granted; 1:02-cv-1431-SEB (dismissed April 4, 2003 for failure to state a claim upon which relief can be granted); and 1:02-cv-1431-SEB (appeal

determined not to be taken in good faith May 7, 2003) qualify as “strikes” within the meaning of §1915(g).

An inmate with three or more “strikes” “can use the partial prepayment option in § 1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” Abdul-Wadood v. Nathan, 91 F.3d 1023, 1025 (7th Cir. 1996). Mr. Henderson does not allege that he is in serious danger of imminent physical injury, and the events of which he complains do not appear to relate to his current confinement. Accordingly, § 1915(g) mandates that the court deny Mr. Henderson leave to proceed in forma pauperis. Mr. Henderson may still proceed with this action, but to do so he must pay the full amount of the filing fee.

For the foregoing reasons, the court DENIES the plaintiff leave to proceed in forma pauperis and affords him to and including August 5, 2005, within which to pay the \$250.00 the filing fee, and advises him that if he does not pay the filing fee by that date, this case will be dismissed without further notice without affecting his obligation to pay the filing fee.

SO ORDERED.

ENTERED: July 11, 2005

/s/ Robert L. Miller, Jr.
Chief Judge
United States District Court